

PAUL MAZZIE,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 4:05CV338 CDP
	)	
JIM MOORE,	)	
	)	
Respondent.	)	

This matter is before me on the petition of Paul Mazzie for a writ of habeas corpus under 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Audrey G. Fleissig for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1). On January 18, 2008, Judge Fleissig filed her recommendation that the petitioner's habeas petition should be denied.

Petitioner objects to the Report and Recommendation. In his objections, petitioner raises the same arguments raised in his petition and argues that Judge Fleissig erroneously determined that his petition should be denied. I have conducted a de novo review of the entire file, including all matters relevant to the petition. After careful consideration, I will adopt and sustain the thorough reasoning of Magistrate Judge Fleissig and will deny petitioner's habeas petition.

I agree with Judge Fleissig that the state court determination on the merits of these claims was not “contrary to” or an “unreasonable application of” clearly established federal law. 28 U.S.C. § 2254(d)(1). I also agree that petitioner has not shown that the state court determination “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding.” 28 U.S.C. § 2254(d)(2). Because Judge Fleissig correctly decided petitioner’s claims, I am overruling petitioner’s objections to the Report and Recommendation and will deny habeas relief for the reasons stated in the Report and Recommendation.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)).

Petitioner has not made such a showing. Therefore, I will not issue a certificate of appealability.

Accordingly,


**IT IS HEREBY ORDERED** that the Report and Recommendation filed on January 18, 2008 [#17] is adopted and sustained in its entirety.

**IT IS FURTHER ORDERED** that petitioner's objections to the Report and Recommendation [#21] are overruled in their entirety.

**IT IS FURTHER ORDERED** that petitioner Paul Mazzie's Petition for Writ of Habeas Corpus [#2] and Motion for Relief [#13] are **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same day.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 30th day of April, 2008.